IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MRS. JUSTICE K.HEMA

FRIDAY, THE 8TH DECEMBER 2006 / 17TH AGRAHAYANA 1928

LA.App.No. 634 of 2004

LAR.337/1999 of ADDL.SUB COURT,KOTTAYAM
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APPELLANT/RESPONDENT:

STATE OF KERALA.

BY MR.SURESH BABU, GOVERNMENT PLEADER.

RESPONDENT/ CLAIMANT:

THOMAS DEVASIA PLATHOTTATHILAYA
PRIYATHUPARAMBIL, PARAMPRAM, MUTTUCHIRA VILLAGE,
VAIKOM TALUK.

BY MR.M.J.THOMAS, ADVOCATE.

THIS LAND ACQUISITION APPEAL HAVING BEEN FINALLY HEARD ON 08/12/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K. HEMA, J.

L.A.A. No.634 OF 2004

Dated this the 8th day of December, 2006.

J U D G M E N T

This appeal is filed by the State challenging the award passed by the Sub Court in LAR.No.337/1999 enhancing the compensation to 60% of the land value fixed by the Land Acquisition Officer and granting certain other legally permissible reliefs.

2. According to the respondent-claimant, an extent of 0.2.28 Ares of land comprised in Survey No.843/4A-1 of Muttuchira village in Vaikom Taluk was acquired for the formation of Muttuchira Distributory. Notification was issued under Section 4(1) of the Land Acquisition Act (Act, for short) which was published on 10.10.1996. The land value was fixed at Rs.9885/- per Are by the Land Acquisition Officer and an award was passed on 01.03.1999 on the basis of such land value. Dissatisfied by the said award, a reference was made under Section 18 of the Act.

3. According to the claimant, the property acquired is a dry land having road frontage. It is situated near Muttuchira town and it is suitable for constructing buildings both for commercial and residential purposes. In support of the case, the claimant examined himself as AW1 and marked Ext.A1, a copy of the judgment in LAR No.222/1997.

The respondent did not adduce any oral evidence, but marked Exts.R1 and R2.

4. On an analysis of the evidence on record the court below found that, 60% of enhancement of land value than that has been fixed by the Land Acquisition Officer is seems to be just and reasonable compensation in this case, as awarded as per judgment Ext.A1. Thus, 60% of Rs.9885/-, that is Rs.5,931/- per Are was allowed as enhancement compensation. The said award is under challenge in this appeal.

5. The main contention raised by the State in this appeal is that, the claimant failed to produce relevant documents and evidence to prove his claim for enhancement of land value. It is clear from the records that the claimant examined himself as AW1 and marked Ext.A1 in support of his case. He also deposed regarding the relevant aspects to get enhanced compensation. He produced Ext.A1, certified copy of the judgment in another reference case and relied upon the same to get 60% enhancement. The Sub Court, after considering the various aspects, held that Ext.A1 can be relied upon for the purpose of fixing the land value and granting enhancement. In such circumstances, it cannot be said that the claimant did not adduce any evidence at all either oral or documentary.

On going through the award under challenge, I find that the trial court has considered the various relevant aspects and applied the principles in Ext.A1 to the facts of this case. There is no reason to interfere in the impugned award.

This appeal is dismissed.

K. HEMA, JUDGE

smp